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30-10-202. ICF-MR provider agreement. As a prerequisite for participation in the medicaid/medikan program as an ICF-MR provider, the owner or lessee shall enter into a provider agreement with the agency on forms prescribed by the secretary. The effective date of this regulation shall be January 30, 1991. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T-30-10-1-90, Oct. 1, 1990; effective Jan. 30, 1991.)

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30-10-203. ICF-MR inadequate care. (a) When the agency determines that inadequate care is being provided to a client, payment to the ICF-MR for the client may be terminated.

(b) When the agency receives confirmation from the Kansas department of health and environment that an ICF-MR has not corrected deficiencies which significantly and adversely affect the health, safety, nutrition or sanitation of ICF-MR clients, payments for new admissions shall be denied and future payments for all clients shall be withheld until confirmation that the deficiencies have been corrected. The effective date of this regulation shall be January 30, 1991. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T-30-10-1-90, Oct. 1, 1990; effective Jan. 30, 1991.)

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30-10-204. ICF-MR standards for participation; intermediate care facility for the mentally retarded or clients with related conditions. As a prerequisite for participation in the medicaid/medikan program as a provider of intermediate care facility services for the mentally retarded or clients with related conditions, each ICF-MR shall: (a) Meet the requirements of 42 CFR 442, subparts A, B, C and E, effective October 3, 1988, which is adopted by reference, and 42 CFR 483, subpart D, effective October 3, 1988, which is adopted by reference; and

(b) be certified for participation in the program by the Kansas department of health and environment. The effective date of this regulation shall be January 30, 1991. (Authorized by and implementing K.S.A. 39-708c, as amended by L. 1990, Chapter 152; effective, T-30-10-1-90, Oct. 1, 1990; effective Jan. 30, 1991.)

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Health Care Financing Administration, HHS

§ 442.13

Subpart A—General Provisions

§ 442.1 Basis and purpose.

(a) This part states requirements for provider agreements and facility certification relating to the provision of services furnished by skilled nursing facilities and intermediate care facilities to Medicaid recipients. The requirements apply to State Medicaid agencies and survey agencies and to the facilities. This part is based on the following sections of the Act:

Section 1902(a)(4), administrative methods for proper and efficient operation of the State plan;

Section 1902(a)(27), provider agreements;

Section 1902(a)(28), skilled nursing facility standards;

Section 1902(a)(33)(B), State survey agency functions;

Section 1902(i), circumstances and procedures for denial of payment and termination of provider agreements in certain cases;

Section 1905 (c) and (d), definition of intermediate care facility services;

Section 1905 (f) and (i), definition of skilled nursing facility services;

Section 1916, certification and approval of SNFs and of RHCs;

Section 1913, hospital providers of skilled nursing and intermediate care services, and

Section 1919, correction and reduction plans for intermediate care facilities for the mentally retarded.

(b) Section 431.610 of this subchapter contains requirements for designating the State Licensing agency to survey these facilities and for certain survey agency responsibilities.

(43 FR 48233, Sept. 29, 1978, as amended at 47 FR 31523, July 30, 1982; 51 FR 24490, July 3, 1986; 53 FR 1993, Jan. 25, 1988; 53 FR 20495, June 3, 1988)

Effective Date Note: At 53 FR 20495, June 3, 1988, § 442.1(a), the first sentence was revised, effective October 3, 1988. For the convenience of the user, the superseded text is set forth below:

§ 442.1 Basis and purpose.

(a) This part states requirements for provider agreements, facility certification, and facility standards relating to the provision of services furnished by skilled nursing facilities and intermediate care facilities, including intermediate care facilities for the mentally retarded, to Medicaid recipients.

§ 442.2 Terms.

In this part—

Facility refers to a skilled nursing facility (SNF), an intermediate care facility (ICF), and an intermediate care facility for the mentally retarded or persons with related conditions (ICF/MR). Except where otherwise specified, "ICF" refers to both an ICF and an ICF/MR.

Facility, and any specific type of facility referred to, may include a distinct part of a facility as specified in § 440.40 or § 440.150 of this subchapter.

Immediate jeopardy or immediate threat for Medicaid certified facilities means a situation in which a facility's noncompliance with one or more conditions of participation (for SNFs) or standards (for ICFs and ICFs/MR) poses a serious threat to patients' or clients' health or safety such that immediate corrective action is necessary. There is no substantive difference between immediate jeopardy and immediate threat.

New admission means the admission of a Medicaid recipient who has never been in the facility or, if previously admitted, had been discharged or had voluntarily left the facility. The term does not include the following:

(a) Individuals who were in the facility before the effective date of denial of payment for new admissions, even if they become eligible for Medicaid after that date.

(b) If the approved State plan includes payments for reserved beds, individuals who, after a temporary absence from the facility, are readmitted to beds reserved for them in accordance with § 447.40(a) of this chapter.

(43 FR 48233, Sept. 29, 1978, as amended at 51 FR 24491, July 3, 1986; 53 FR 1993, Jan. 25, 1988)

Subpart B—Provider Agreements

§ 442.10 State plan requirement.

A State plan must provide that requirements of this subpart are met.

§ 442.12 Provider agreement: General requirements.

(a) *Certification and recertification.* Except as provided in paragraph (b) of this section, a Medicaid agency may not execute a provider agreement with a facility for SNF or ICF services nor make Medicaid payments to a facility for those services unless the Secretary or the State survey agency has certified the facility under this part to provide those services. (See § 442.101 for certification by the Secretary or by the State survey agency).

(b) *Exception.* The certification requirement of paragraph (a) of this section does not apply with respect to Christian Science sanatoria operated, or listed and certified, by the First Church of Christ Scientist, Boston, Mass.

(c) *Conformance with certification condition.* An agreement must be in accordance with the certification provisions set by the Secretary or the survey agency under Subpart C of this part.

(d) *Denial for good cause.* (1) If the Medicaid agency has adequate documentation showing good cause, it may refuse to execute an agreement, or may cancel an agreement, with a certified facility.

(2) A provider agreement is not a valid agreement for purposes of this part even though certified by the State survey agency, if the facility fails to meet the civil rights requirements set forth in 45 CFR Parts 80, 84, and 90.

(43 FR 22936, Apr. 4, 1968)

§ 442.13 Effective date of agreement.

(a) *Basic requirements.* If the Medicaid agency enters into a provider agreement, the effective date must be in accordance with this section.

(b) *All Federal requirements are met on the date of the survey.* The agreement must be effective on the date the onsite survey is completed (or on the day following the expiration of a cur-

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rent agreement) if, on the date of the survey, the provider meets:

- (1) All Federal health and safety requirements; and
- (2) Any other requirements imposed by the Medicaid agency.

(c) All Federal requirements are not met on the date of the survey. If the provider fails to meet any of the requirements specified in paragraph (b) of this section, the agreement must be effective on the earlier of the following dates:

- (1) The date on which the provider meets all requirements.

- (2) The date on which the provider is found to meet all applicable conditions of participation and submits a correction plan for other deficiencies to the State survey agency or an approvable waiver request, or both.

(45 FR 22936, Apr. 4, 1980, as amended at 53 FR 20495, June 3, 1988)

Effective Date Note: At 53 FR 20495, June 3, 1988, § 442.13(b)(1), was amended by removing the word "standards" and adding in its place the word "requirements," and paragraph (c) was revised, effective October 3, 1988. For the convenience of the user, the superseded text is set forth below:

§ 442.13 Effective date of agreement.

(c) All Federal requirements are not met on the date of the survey. If the provider fails to meet any of the requirements specified in paragraph (b) of this section, the agreement must be effective on the earlier of the following dates:

- (1) The date on which the provider meets all requirements.

- (2) The date on which the provider submits a correction plan acceptable to the State survey agency or an approvable waiver request, or both.

§ 442.16 Effect of change of ownership.

(a) Assignment of agreement. When there is a change of ownership, the Medicaid agency must automatically assign the agreement to the new owner.

(b) Conditions that apply to assigned agreements. An assigned agreement is subject to all applicable statutes and regulations and to the terms and conditions under which it was originally issued, including, but not limited to, the following:

- (1) Any existing plan of correction.

- (2) Any expiration date.

- (3) Compliance with applicable health and safety requirements.

- (4) Compliance with the ownership and financial interest disclosure requirements of §§ 455.104 and 455.105 of this chapter.

- (5) Compliance with civil rights requirements set forth in 45 CFR Parts 80, 84, and 90.

- (6) Compliance with any additional requirements imposed by the Medicaid agency.

(45 FR 22936, Apr. 4, 1980, as amended at 53 FR 20495, June 3, 1988)

Effective Date Note: At 53 FR 20495, June 3, 1988, § 442.14(b)(3), was amended by removing the word "standards" and adding in its place the word "requirements," effective October 3, 1988.

§ 442.15 Duration of agreement.

- (a) Except as specified under § 442.16, the duration of an agreement may not exceed 12 months.

- (b) The agreement must be for the same duration as the certification period set by the survey agency. However, if the Medicaid agency has adequate documentation showing good cause, it may make an agreement for less than this period.

- (c) FFP is available for services provided by a facility for up to 30 days after its agreement expires or terminates under the conditions specified in § 441.11 of this subchapter.

- (d) The limitation specified in paragraph (a) of this section does not apply to hospitals with a swing-bed approval.

(43 FR 43233, Sept. 29, 1978, as amended at 47 FR 31532, July 30, 1982)

§ 442.16 Extension of agreement.

A Medicaid agency may extend a provider agreement for a single period of up to 2 months beyond the original expiration date specified in the agreement if it receives written notice from the survey agency, before the expiration date of the agreement, that extension will not jeopardize the patients' health and safety, and—

- (a) Is needed to prevent irreparable harm to the facility or hardship to the recipients in the facility; or

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(b) Is needed because it is impracticable to determine, before the expiration date, whether the facility meets certification requirements.

(43 FR 45233, Sept. 29, 1978, as amended at 52 FR 32551, Aug. 28, 1987; 53 FR 20493, June 3, 1988)

Effective Date Note: At 53 FR 20493, June 3, 1988, § 442.16(b), was amended by removing the word "standards" and adding in its place the word "requirements," effective October 3, 1988.

§ 442.30 Additional requirements for agreements with SNF's participating in Medicare.

(a) The Medicaid agency's agreement with a SNF participating in Medicare must—

(1) Provide for the same terms and conditions as Medicare certification; and

(2) Be for the same duration as the Medicare certification.

(b) If the Secretary notifies the Medicaid agency that he has denied, terminated, or refused to renew a Medicare agreement with a SNF, the agency must deny, terminate, or refuse to renew its Medicaid agreement with that SNF. The denial, termination, or refusal to renew the Medicaid agreement must be effective on the same date as the denial, termination, or refusal to renew the Medicare agreement.

(c) If the Medicaid agency has terminated an agreement under paragraph (b) of this section, it may not make another agreement with that SNF until—

(1) The conditions causing the termination are removed; and

(2) The SNF provides reasonable assurance to the survey agency that the conditions will not recur.

(43 FR 45233, Sept. 29, 1978, as amended at 44 FR 9733, Feb. 15, 1979)

§ 442.30 Agreement as evidence of certification.

(a) Under §§ 440.40(a) and 440.150 of this chapter, FFP is available in expenditures for SNF and ICF services only if the facility has been certified as meeting the requirements for Medicaid participation, as evidenced by a provider agreement executed under this part. An agreement is not valid

evidence that a facility has met those requirements if HCFA determines that—

(1) The survey agency failed to apply the applicable certification requirements under Subpart D, E, or F of this part or Subpart D of Part 483, which sets forth the conditions of participation for ICFs/MR;

(2) The survey agency failed to follow the rules and procedures for certification set forth in Subpart C of this part and § 431.610 of this subchapter;

(3) The survey agency failed to perform any of the functions specified in § 431.610(g) of this subchapter relating to evaluating and acting on information about the facility and inspecting the facility;

(4) The survey agency failed to use the Federal standards, and the forms, methods and procedures prescribed by HCFA as required under § 431.610(f)(1) of this chapter, for determining the qualifications of providers; or

(5) The survey agency failed to adhere to the following principles in determining compliance:

(i) The survey process is the means to assess compliance with Federal health, safety and quality standards;

(ii) The survey process uses resident outcomes as the primary means to establish the compliance status of facilities. Specifically, surveyors will directly observe the actual provision of care and services to residents, and the effects of that care, to assess whether the care provided meets the needs of individual residents;

(iii) Surveyors are professionals who use their judgment, in concert with Federal forms and procedures, to determine compliance;

(iv) Federal procedures are used by all surveyors to ensure uniform and consistent application and interpretation of Federal requirements;

(v) Federal forms are used by all surveyors to ensure proper recording of findings and to document the basis for the findings.

(6) The survey agency failed to assess in a systematic manner a facility's actual provision of care and services to residents and effects of that care on residents.

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(7) Required elements of the SNF or ICF survey process include all of the following:

- (i) An entrance conference;
- (ii) A resident-centered tour of facility;
- (iii) An in-depth review of a sample of residents including observation, interview and record review;
- (iv) Observation of the preparation and administration of drugs for a sample of residents;
- (v) Evaluation of a facility's meals, dining areas and eating assistance procedures;
- (vi) Formulation of a deficiency statement based on the incorporation of all appropriate findings onto the survey report form;
- (vii) An exit conference; and
- (viii) Follow-up surveys as appropriate.

(8) The agreement's terms and conditions do not meet the requirements of this subpart.

(b) The Administrator will make the determination under paragraph (a) of this section through onsite surveys, other Federal reviews, State certification records, or reports he may require from the Medicaid or survey agency.

(c) If the Administrator disallows a State's claim for FFP because of a determination under paragraph (a) of this section, the State is entitled upon request to reconsideration of the disallowance under 45 CFR Part 16.

[43 FR 45233, Sept. 29, 1978, as amended at 51 FR 21558, June 13, 1986; 53 FR 20495, June 3, 1988; 53 FR 23101, June 17, 1988]

Effective Date Note: At 53 FR 20495, June 3, 1988, § 442.30 paragraph (a)(1) was revised, effective October 3, 1988. For the convenience of the user, the superseded text is set forth below:

§ 442.30 Agreement as evidence of certification.

(a) * * *

(1) The survey agency failed to apply the applicable certification standards required under Subpart D, E, F, or G of this part.

§ 442.40 Availability of FFP during appeals.

(a) **Definitions.** As used in this section—

Effective date of expiration means the date of expiration originally speci-

fied in the provider agreement, or the later date specified if the agreement is extended under § 442.16; and

Effective date of termination means a date earlier than the expiration date, set by the Medicaid agency when continuing participation until the expiration date is not justified, because the facility no longer meets the requirements for participation.

(b) **Scope, applicability, and effective date.**—(1) **Scope.** This section sets forth the extent of FFP in State Medicaid payments to a SNF or ICF after its provider agreement has been terminated or has expired and not been renewed.

(2) **Applicability.** (i) This section and § 442.42 apply only when the Medicaid agency, of its own volition, terminates or does not renew a provider agreement, and only when the survey agency certifies that there is no jeopardy to recipient health and safety. When the survey agency certifies that there is jeopardy to recipient health and safety, or when it fails to certify that there is no jeopardy, FFP ends on the effective date of termination or expiration.

(ii) When the State acts under instructions from HCFA, FFP ends on the date specified by HCFA (HCFA instructs the State to terminate the Medicaid provider agreement when HCFA (A) terminates the Medicare provider agreement with a SNF, or (B) in validating a State survey agency certification, determines that a SNF or ICF does not meet the requirements for participation.)

(3) **Effective date.** This section and § 442.42 apply to terminations or expirations that are effective on or after September 28, 1987. For terminations or nonrenewals that were effective before that date, FFP may continue for up to 120 days from September 28, 1987, or 12 months from the effective date of termination or nonrenewal, whichever is earlier.

(c) **Basic rules.** (1) Except as provided in paragraphs (d) and (e) of this section, FFP in payments to a SNF or ICF ends on the effective date of termination of the facility's provider agreement, or if the agreement is not terminated, on the effective date of expiration.

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(2) If State law, or a Federal or State court order or injunction, requires the agency to extend the provider agreement or continue payments to a facility after the dates specified in paragraph (d) of this section, FFP is not available in those payments.

(d) *Exception: Continuation of FFP after termination or expiration of provider agreement.*—(1) Conditions for continuation. FFP is available after the effective date of termination or expiration only if—

(i) The evidentiary hearing required under § 431.153 of this chapter is provided by the State agency after the effective date of termination or expiration (or, if begun before termination or expiration, is not completed until after that date); and

(ii) Termination or nonrenewal action is based on a survey agency certification that there is no jeopardy to recipients' health and safety.

(2) *Extent of continuation.* FFP is available only through the earlier of the following:

(i) The date of issuance of an administrative hearing decision that upholds the agency's termination or nonrenewal action.

(ii) The 120th day after the effective date of termination of the facility's provider agreement or, if the agreement is not terminated, the 120th day after the effective date of expiration. (If a hearing decision that upholds the facility is issued after the end of the 120-day period, when FFP has already been discontinued, the rules of § 442.42 on retroactive agreements apply).

(e) *Applicability of § 441.11.* If FFP is continued during appeal under paragraph (d) of this section, the 30-day period provided by § 441.11 of this chapter would not begin to run until issuance of a hearing decision that upholds the agency's termination or nonrenewal action.

[53 FR 32551, Aug. 28, 1987]

§ 442.42 FFP under a retroactive provider agreement following appeal.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, if a SNF or ICF is upheld on appeal from termination or nonrenewal of a provider agreement, and the State issues a ret-

roactive agreement, FFP is available beginning with the retroactive effective date, which must be determined in accordance with § 442.13.

(b) *Exception.* This rule does not apply if HCFA determines, under § 442.30, that the agreement is not valid evidence that the facility meets the requirements for participation. This exclusion applies even if the State issues the new agreement as the result of an administrative hearing decision favorable to the facility or under a Federal or State court order.

[52 FR 32551, Aug. 28, 1987]

Subpart C—Certification of SNFs, ICFs, and ICFs/MR

§ 442.100 State plan requirements.

A State plan must provide that the requirements of this subpart and Part 483 are met.

[53 FR 20495, June 3, 1988]

Effective Date Note: At 53 FR 20495, June 3, 1988, § 442.100 was revised, effective October 3, 1988. For the convenience of the user, the superseded text is set forth below:

§ 442.100 State plan requirements.

A State plan must provide that the requirements of this subpart are met.

§ 442.101 Obtaining certification.

(a) This section states the requirements for obtaining notice of a facility's certification before a Medicaid agency executes a provider agreement under § 442.12.

(b) The agency must obtain notice of certification from the Secretary for—

(1) A facility located on an Indian reservation; and

(2) A SNF that has been certified for Medicare payments.

(c) The agency must obtain notice of certification from the survey agency for all other facilities.

(d) The notice must indicate that one of the following provisions pertains to the facility:

(1) The facility meets the applicable requirements:

(i) An SNF meets the requirements in Subpart D of this part and each of the conditions of participation in Part 405, Subpart K of this chapter.

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(II) An ICF meets the requirements in Subparts E and F of this part.

(III) An ICF/MR meets the requirements of Subpart E of this part and each of the conditions of participation in Part 483, Subpart D of this chapter.

(2) The facility is considered to meet applicable requirements based on waivers or variances granted by HCFA or the survey agency if such waivers or variances are allowed under the applicable subpart.

(3) The facility has been certified with deficiencies in accordance with the following:

(i) An ICF has been certified if deficiencies are covered by an acceptable plan of correction.

(ii) An SNF or ICF/MR has been certified with standard-level deficiencies if—

(A) All conditions of participation are found met; and

(B) The facility submits an acceptable plan of correction covering the remaining deficiencies, subject to other limitations specified in § 442.105.

(e) For SNFs and ICFs/MR, the failure to meet one or more of the applicable conditions of participation is cause for termination or non-renewal of the provider agreement.

[43 FR 45233, Sept. 29, 1978, as amended at 53 FR 20495, June 3, 1988]

EFFECTIVE DATE NOTE: At 53 FR 20495, June 3, 1988, § 442.101 (d) and (e) was revised, effective October 3, 1988. For the convenience of the user, the superseded text is set forth below:

§ 442.101 Obtaining certification.

(d) The notice must state that the facility—

(1) Meets the applicable requirements under Subpart D, E, F, or G of this part, except for waivers or variances granted by the Secretary or the survey agency under those subparts; or

(2) Has been certified with provision for correcting deficiencies in meeting those requirements, under the conditions of this subpart.

(e) For purposes of certification of facilities under this subpart, a waiver of standards is not a deficiency.

§ 442.105 Certification with standard-level deficiencies: General provisions.

If a survey agency finds a facility deficient in meeting the standards specified under Subpart D, E or F of this part or under Subpart D of Part 483, the agency may certify the facility for Medicaid purposes under the following conditions:

(a) The agency finds that the facility's deficiencies, individually or in combination, do not jeopardize the patient's health and safety, nor seriously limit the facility's capacity to give adequate care. The agency must maintain a written justification of these findings.

(b) The agency finds acceptable the facility's written plan for correcting the deficiencies.

(c) If a facility was previously certified with a deficiency and has a different deficiency at the time of the next survey, the agency documents that the facility—

(1) Was unable to stay in compliance with the standard for reasons beyond its control, or despite intensive efforts to comply; and

(2) Is making the best use of its resources to furnish adequate care.

(d) If a facility has the same deficiency it had under the prior certification, the agency documents that the facility—

(1) Did achieve compliance with the standard at some time during the prior certification period;

(2) Made a good faith effort, as judged by the survey agency, to stay in compliance; and

(3) Again became out of compliance for reasons beyond its control.

(e) If an ICF or ICF/MR has a deficiency of the types specified in § 442.111 or § 442.112 that requires a plan of correction extending beyond 12 months, the agency documents that the conditions of those sections are met.

[43 FR 45233, Sept. 29, 1978, as amended at 53 FR 20496, June 3, 1988]

EFFECTIVE DATE NOTE: At 53 FR 20496, June 3, 1988, § 442.105 was amended by revising the title and the introductory paragraph, effective October 3, 1988. For the convenience of the user, the superseded text is set forth below:

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§ 442.105 Certification with deficiencies: General provisions.

If survey agency finds a facility deficient in meeting the standards specified under Subpart D, E, F, or G of this part, the agency may certify the facility for Medicaid purposes under the following conditions:

§ 442.109 Certification period: General provisions.

(a) A survey agency may certify a facility that fully meets applicable requirements for up to 12 months.

(b) The survey agency may notify the Medicaid agency that the term of a provider agreement may be extended up to 2 months after the expiration date of the agreement under the conditions specified in § 442.16.

(43 FR 45233, Sept. 29, 1978 Redesignated at 53 FR 1993, Jan. 25, 1988)

§ 442.110 Certification period: Facilities with standard-level deficiencies.

(a) Facilities with deficiencies may be certified under § 442.105 for the period specified in either paragraph (b) or (c) of this section. However, ICFs with deficiencies that may require more than 12 months to correct may be certified under §§ 442.111 and 442.112.

(b) The survey agency may certify a facility for a period that ends no later than 60 days after the last day specified in the plan for correcting deficiencies. The certification period must not exceed 12 months, including the period allowed for corrections.

(c) The survey agency may certify a facility for up to 12 months with a condition that the certification will be automatically canceled on a specified date within the certification period unless—

(1) The survey agency finds that all deficiencies have been satisfactorily corrected; or

(2) The survey agency finds and notifies the Medicaid agency that the facility has made substantial progress in correcting the deficiencies and has a new plan for correction that is acceptable.

The automatic cancellation date must be no later than 60 days after the last

day specified in the plan for correction of deficiencies under § 442.105.

(43 FR 45233, Sept. 29, 1978 Redesignated and amended at 53 FR 1993, Jan. 25, 1988; 53 FR 20496, June 3, 1988)

EFFECTIVE DATE NOTE: At 53 FR 20496, June 3, 1988, in § 442.110, the heading was revised, by inserting the words "standard-level" between "with" and "deficiencies", effective October 3, 1988.

§ 442.111 Extended period for correcting deficiencies: ICFs other than ICFs/MR; environment, sanitation and Life Safety Code deficiencies.

(a) Scope. This section applies to ICFs other than ICFs/MR that are deficient in meeting requirements for—

(1) Environment and sanitation (§§ 442.324 through 442.330); or

(2) Life Safety Code (§§ 442.321 through 442.323).

(b) Certification period. The survey agency may certify an ICF other than an ICF/MR under § 442.105 for up to 12 months even though the facility has deficiencies that may take up to 2 years after the first certification of the facility to correct, if the conditions in this section are met.

(c) Written plan for correction. The ICF must submit a written plan for correcting the deficiencies that—

(1) Specifies the steps the facility will take to correct each deficiency;

(2) Specifies a timetable for taking each of those steps and a date for completion of correction of each deficiency that is not later than 2 years after the date the facility is first certified; and

(3) Is acceptable to the survey agency.

(d) Feasibility of plan. The survey agency must find that the facility can—

(1) Potentially meet the requirements in which it is deficient by taking the steps specified in the plan for correction; and

(2) Correct each deficiency by the date specified in the plan for correction.

(e) Progress in meeting correction plan. Within each 6-month period after acceptance of the plan for correction, the survey agency must find,